

CHAZ RICHARD,)
)
 Plaintiff,)
)
 v.) **Case No. 21-cv-05727**
)
 MOXIE SOLAR, INC.,)
)
 Defendants.)

3. That on July 14, 2021, the Plaintiff was standing in the parking lot telling people, including his co-worker, Ryan Williams, that he wanted to get fired so he could collect unemployment, and that when Ryan Plock pulled into the parking lot, the Plaintiff ran across the parking lot, pointing at Plock and yelling at Plock in a threatening manner.

4. That on July 2, 2021 and July 5, 2021, the Plaintiff did not show-up for work and did not notify the Defendant that he would not be at work or call in with an acceptable reason for the absences.

5. That the Plaintiff was written up as a "no call no show" for the absences on July 2, 2021 and July 5, 2021.

6. That the Plaintiff was written up for the disrespectful manner in which he spoke to Ryan Plock on July 14, 2021 and the misrepresentation of facts that the Plaintiff made when he called Joe Butterbaugh on July 12, 2021.

7. That the Defendant terminated the Plaintiff on July 14, 2021 for the combination of lying, aggressive and abusive behavior and for twice in a row not notifying his supervisor that he was not coming to work.

SECOND AFFIRMATIVE DEFENSE

The Plaintiff has failed to mitigate, or reasonably attempted to mitigate, his damages, if any, as required by law and the claims in his Complaint should therefore be barred in whole or in part.

Respectfully submitted,

MOXIE SOLAR, INC.

By: /s/ Joseph Pierotti

Joseph Pierotti

One of its Attorneys

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CERTIFICATE OF SERVICE

I, Joseph Pierotti, certify that on January 27, 2022, a true and correct copy of the foregoing was served and filed using the Court's ECF system, through which this document is available for viewing and downloading, causing a notice of electronic filing to be served upon all counsel of record.

/s/ Joseph Pierotti, Esq.
Joseph Pierotti, Esq.